

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte HERMANN GROBECKER  
and HENNING WILHELM

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Appeal No. 99-0952  
Application 08/795,494<sup>1</sup>

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ON BRIEF

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Before COHEN, McQUADE and CRAWFORD, Administrative Patent Judges.

COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 9 through 16. These claims constitute all of the claims remaining in the application.

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<sup>1</sup> Application for patent filed February 5, 1997.

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Appellants' invention pertains to a housing for storing disc-shaped information carriers. An understanding of the invention can be derived from a reading of exemplary claim 9, a copy of which appears in the APPENDIX to the brief (Paper No. 14).

As evidence of anticipation and obviousness, the examiner has applied the documents listed below:

Nusselder 1985	4,535,888	Aug. 20,
Brandt et al. (Brandt)	5,269,409	Dec. 14, 1993

The following rejections are before us for review.

Claims 9 through 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Nusselder.

Claims 14 through 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nusselder in view of Brandt.

The full text of the examiner's rejections and response to the argument presented by appellants appears in the final

rejection and answer (Paper Nos. 10 and 15), while the complete statement of appellants' argument can be found in the main and reply briefs (Paper Nos. 14 and 16).

In the main brief (page 4), appellants indicate that "[a]ll claims are patentable for similar reasons and stand together." Accordingly, we focus our attention exclusively upon the content of independent claim 9, with the remaining claims 10 through 16 standing or falling therewith.

#### OPINION

In reaching our conclusion on the issues raised in this appeal, this panel of the board has carefully considered appellants' specification and claim 9, the applied patents,<sup>2</sup> and the respective viewpoints of appellants and the examiner.

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<sup>2</sup> In our evaluation of the applied patents, we have considered all of the disclosure of each document for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

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As a consequence of our review, we make the determinations which follow.

We reverse the examiner's rejection of claim 9 under 35 U.S.C. 102(b). It follows that we likewise reverse the rejection of claims 10 through 16 since, as earlier indicated, these claims stand or fall with claim 9.

Claim 9 is drawn to a housing for storing disc-shaped information carriers comprising, inter alia, a support plate (15) which is flat on both sides and comprised in a central portion of the housing so as to lie between lid parts when the lid parts are closed, "said support plate extending asymmetrically between said lid parts (10, 11) so as to form two spaces (17, 18) of different sizes between each side of the support plate and the facing lid part surface, each of said spaces extending over substantially an entire side of said support plate."

Akin to the understanding of the examiner, we appreciate

from our review of the Nusselder document that the intermediate bottom 4 of the box-shaped center part 1 exhibits a circular recess 20 on both upper and lower sides thereof as preparation for the acceptance of elevated seats 9 and peg arrangements 10. Focusing upon Fig. 2, in particular, it is apparent to us that the noted structure forming the circular recesses is offset relative to the intermediate bottom 4.

However, as we see it, this construction of Nusselder is not that set forth in claim 9. Considering the reference as a whole, it is clear to us that one skilled in the art would have fairly understood the intermediate bottom 4 (support plate) to be symmetrically positioned relative to box-shaped floor parts 2, notwithstanding that the structure forming central recesses 20 is offset. Thus, Nusselder simply does not respond to the requirement in claim 9 of a support plate extending asymmetrically between lid parts forming two spaces of different sizes, with each of the spaces extending over substantially an entire side of the support plate. Since the evidence before us is lacking as indicated, the rejection of claim 9 under 35 U.S.C. 102(b) must be reversed. As a

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concluding point, we simply note that the teaching of Brandt does not overcome the deficiency of the Nusselder reference and would not have been suggestive of an asymmetrical support plate.

In summary, this panel of the board has:

reversed the rejection of claims 9 through 13 under 35 U.S.C. § 102(b) as being anticipated by Nusselder; and

reversed the rejection of claims 14 through 16 under 35 U.S.C. § 103(a) as being unpatentable over Nusselder in view of Brandt.

The decision of the examiner is reversed.

REVERSED

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IRWIN CHARLES COHEN	)	
Administrative Patent Judge	)	
	)	
	)	BOARD OF PATENT
JOHN P. McQUADE	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
MURRIEL E. CRAWFORD	)	
Administrative Patent Judge	)	

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